

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN (FLINT)

In Re:

NEIL VAN HELMKAY

SSN xxx-xx-1407

12974 Croftshire Dr.

Grand Blanc, MI 48439

Debtor _____/

Case No. 10-34331-dof

Chapter 7

Hon. Daniel S. Opperman

Pet. Filed: 08/06/10

OBJECTION TO CLAIM (3-1) OF INTERNAL REVENUE SERVICE

Now comes Collene K. Corcoran, trustee, by and through counsel Thomas J. Budzynski and objects to the claims as filed herein by the Internal Revenue Service stating as follows:

1. That the Internal Revenue Service filed Claim No. 3-1 in this cause for civil penalties.

2. That the claim is objected to for the following reasons: the debtor herein had previously sold the business from which these claims emanate. Based upon information received by the trustee, the debtor sold the business on December 3, 2003, and recovered the business due to non-payment of the sale price on September 12, 2008.

3. The debtor cannot be charged with civil penalties for periods in which he was not a responsible party and based upon the information received by the trustee, the debtor could not be a responsible party from December 3, 2003 through September 12, 2008.

4. That a review of the claim as filed herein reveals that the claim contains several items which are based upon items occurring during the periods when the debtor was not a responsible party.

5. That in addition thereto, the debtor sold the business and subsequently recovered the business and premises due to non-payment. The Internal Revenue Service filed liens on the property which encompass periods when the debtor was not a responsible party, and the liens are therefore ineffective.

6. That further, many of the assessments shown on the claim are outside the statute of limitations. Assessments must be made within three years of the due date of the tax, and assessment dates in some cases involve periods exceeding 5 years.

WHEREFORE, the trustee requests that the court disallow the claim of the Internal Revenue Service for all periods encompassing 12/3/2003 through 9/12/2008. That further the Court disallow claims for all periods in which the assessment was not made within three years of the due date of the tax.

That the court further place in the order a provision that those taxes are discharged as to the debtor.

Respectfully submitted,

/s/ Thomas J. Budzynski
Thomas J. Budzynski PC
Attorney for Ch. 7 Trustee
43777 N. Groesbeck Hwy.
Clinton Twp., MI 48036
(586) 463-5253
lawoffice@tjbudzynskipc.com
P26355

Dated: 2/27/13

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN (FLINT)

Exhibit 1

In Re:

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ORDER DENYING CLAIM (3-1) OF INTERNAL REVENUE SERVICE

The matter having come before the Court on Trustee's
Objection to Claim, interested parties having had notice and
opportunity,

IT IS HEREBY ORDERED that the claims of the Internal Revenue
Service for all periods encompassing 12/3/2003 through 9/12/2008
are Disallowed.

IT IS FURTHER ORDERED that any purported claim for
assessments not made within three years of the due date of the
tax shall be disallowed.

UNITED STATES BANKRUPTCY COURT
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Exhibit 2

In Re:

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NOTICE OF OBJECTION TO CLAIM (3-1) OF INTERNAL REVENUE SERVICE

Collene K. Corcoran, by and through her attorney, Thomas J. Budzynski, has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified, or denied. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to deny or change your claim, then on or before APRIL 3, 2013, you or your lawyer must:

1. File with the court a written response to the objection, explaining your position, at:

U.S. Bankruptcy Court
226 West Second Street
Flint, MI 48502

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Thomas J. Budzynski, 43777 N. Groesbeck Hwy., Clinton Twp., MI 48036

2. Attend the hearing on the objection, scheduled to be held on APRIL 10, 2013, at 9:30 A.M., United States Bankruptcy Court, 226 West Second Street, Flint, Michigan 48502, unless your attendance is excused by mutual agreement between yourself and the objector's attorney. (Unless the matter is disposed of summarily as a matter of law, the hearing shall be a pre-trial conference only; neither testimony nor other evidence will be received. A pre-trial scheduling order may be issued as a result of the pre-trial conference.)

If you or your attorney do not take these steps, the Court may deem that you do not oppose the objection to your claim, in which event the hearing will be cancelled, and the objection sustained.

Dated: 2/27/13

/s/ Thomas J. Budzynski
Thomas J. Budzynski PC
Attorney for Ch. 7 Trustee
43777 Groesbeck Hwy.
Clinton Twp., MI 48036
(586) 463-5253
lawoffice@tjbudzynskipc.com
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* Response or answer must comply with F.R.Civ.P. 8(b)(c) and (e)

UNITED STATES BANKRUPTCY COURT
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Exhibit 3

In Re:

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CERTIFICATE OF SERVICE
OBJECTION TO CLAIM (3-1) OF INTERNAL REVENUE SERVICE

I hereby certify that on February 27, 2013, I electronically filed the foregoing Paper(s) with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Margaret Bartindale bartindalem@michigan.gov,

hauscha@michigan.gov

Collene K. Corcoran trustee@corcoran@gmail.com,

ckc@trustesolutions.net

Kimberly M. Lubinski klubinski@butler-butler.com, edm@butler-butler.com

Stephen Edward Spence steve.e.spence@usdoj.gov

John L. Topping jt.dmbbky@yahoo.com, tricountyattorneys@yahoo.com

and I hereby certify that I have mailed by United States Postal Service the Paper(s) to the following non-ECF participants:

Internal Revenue Service

PO Box 7346

Philadelphia, PA 19101-7346

John Connor

Insolvency Manager

600 Arch St.

Room 5200

Philadelphia, PA 19106

Internal Revenue Service

PO Box 330500, M/S 15

Detroit, MI 48232-6500

United States Attorney

211 W. Fort St. - #2001

Detroit, MI 48226-3211

/s/ Marilyn E. Lewis

Secretary to

Thomas J. Budzynski P26355

Thomas J. Budzynski PC

Attorney for Ch. 7 Trustee

43777 Groesbeck Hwy.

Clinton Twp., MI 48036

(586) 463-5253

lawoffice@tjbudzynskipc.com

Dated: 2/27/13